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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,773	03/07/2002	Martin L. Tanaka	E20020020	8731

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EXAMINER

PATEL, HARSHAD R

ART UNIT	PAPER NUMBER
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2855

DATE MAILED: 03/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/092,773

Applicant(s)

TANAKA, MARTIN L. 

Examiner

Harshad Patel

Art Unit

2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/30/03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 29 and 30 is/are allowed.
- 6) ☐ Claim(s) 1-8, 11-23 and 26-28 is/are rejected.
- 7) ☒ Claim(s) 9, 10, 24 and 25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 March 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Drawings

1. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 16-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16, it is unclear as to what first and second differential pressure switches is the applicant referring to. The switches are not positively recited and thus do not have structural relationship with the other elements of the device.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-5, 11-13, 16, 18-20, 26-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Mieczkowski et al. (5,763,764) (hereinafter Mieczkowski).

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Mieczkowski teaches an instrument comprising an enclosure (37) having an opening through which fluid flows, first and second differential pressure switches (102, 81), where in the first pressure switch labeled as "absolute pressure sensor" could be a differential type that would measure differential pressure between the inside of the enclosure and the means 101; and a sealed chamber (80) in said opening, said chamber having only one inlet (92), an outlet (94) and only one path between said only one inlet and said outlet through which said fluid can flow and comprising: first and second restrictors through which said fluid can flow; and means (101, 88) for transferring the pressure in said sealed chamber to said first and second differential pressure switches, the pressure in said enclosure to said first switch and the pressure at said sealed chamber outlet to said second switch. The first and second differential switches being inside the enclosure and the pressure being transmitted by tubes (98, 99).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6-8, 14-15, 17, 21-23, are rejected under 35 U.S.C. 103(a) as being unpatentable over Mieczkowski.

Allowable Subject Matter

8. Claims 29 and 30 allowed.

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9. Claims 9, 10, 24 and 25 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

10. The following is a statement of reasons for the indication of allowable subject matter: Prior arts made available do not teach or fairly suggest, alone or in combination, a method of detecting a blockage in the outlet of a purged enclosure by monitoring the differential pressure difference between the pressure in the enclosure and the sealed chamber and monitoring the differential pressure difference between the sealed chamber and the pressure outside the enclosure. The prior art does not teach the first and second differential pressure switches have a predetermined actuation pressure and each of said first and second restrictors have a resistance to flow selected so that the pressure drop across said first restrictor for a given rate of fluid flow through said first restrictor matches the predetermined actuation pressure of said first switch and the pressure drop across said second restrictor for a given rate of fluid flow through said second restrictor matches the predetermined actuation pressure of said second switch.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harshad Patel whose telephone number is (703) 305-4935. The examiner can normally be reached on Monday-Thursday (7:00 AM-5:30 PM).



Harshad Patel
Primary Examiner
Art Unit 2855

hp
February 23, 2004